

November 5, 1999

**NOTICE AND OPPORTUNITY FOR COMMENT ON PROPOSED
AMENDMENTS TO THE BANKRUPTCY APPELLATE PANEL RULES**

Comments are invited on the proposed amendments to the Rules of the Bankruptcy Appellate Panel of the Ninth Circuit. Comments should be submitted to Nancy B. Dickerson, BAP Clerk, Court of Appeals Building, 125 South Grand Avenue, Pasadena, CA 91105, no later than Friday, December 3, 1999.

The Rules of the Bankruptcy Appellate Panel of the Ninth Circuit ("BAP") have been amended to correspond with the uniform numbering system for local rules adopted by the U. S. Judicial Conference. BAP Rules which were duplicative of the Federal Rules of Bankruptcy Procedure have been eliminated. The duties of the parties and counsel have been clarified and explanatory notes used to guide litigants.

HIGHLIGHTS

Rule 2090-2: PRO SE PARTIES.

This rule alerts parties without counsel of their duty to prosecute the appeal with diligence. The explanatory note sets forth case law on the duty of corporations to appear in a federal court represented by counsel.

Rule 8001(e)-1: ELECTION TO TRANSFER APPEAL TO DISTRICT COURT.

This rule covers those few situations where a motion for leave to appeal is mistakenly filed without a notice of appeal. It also provides that the BAP has discretion to transfer an appeal to the district court in limited circumstances.

Rule 8006-1: TRANSCRIPTS.

This rule, former BAP Rule 4(c), alerts the parties to the importance of filing transcripts in their excerpts of the record if they are challenging oral findings or factual findings.

Rule 8008(a)-3: FAX FILINGS.

This rule states the BAP practice not to accept fax filings, with limited exceptions.

Rule 8009(b)-1: APPENDIX (EXCERPTS OF THE RECORD) .

This rule, former BAP Rule 4(b), outlines more clearly how the appendix, which accompanies the brief, is to be organized. The explanatory note alerts parties to the consequences of filing inadequate excerpts of the record and making arguments without explicit reference to the record.

Rule 8011(d)-1: EMERGENCY MOTIONS.

This rule, formerly BAP Rule 14, was re-written for clarity. The appendix must include certain documents filed in the bankruptcy court.

Rule 8011(e) (1): DELEGATION OF AUTHORITY TO ACT ON MOTIONS.

This rule delegates to the BAP Clerk the authority to act on certain motions, subject to judicial review.

Rule 8070-1: DISMISSAL FOR FAILURE TO PROSECUTE.

This rule provides for dismissal when a party fails to prosecute or fails to comply with court rules or orders.